

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1462

Introduced by Senator Cox

February 23, 2006

An act to amend ~~Section~~ *Sections 791.15 and 791.16* of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Cox. Insurance information and privacy protection: service of process.

Existing law provides for the regulation of insurers by the Insurance Commissioner. Existing law, the Insurance Information and Privacy Protection Act, regulates the disclosure of information gathered in connection with insurance transactions by insurance institutions, agents, or insurance-support organizations. *Existing law requires the commissioner, when he or she has reason to believe that an insurance institution, agent, or insurance-support organization is violating the act, to issue and serve a statement of charges and notice of hearing.* Existing law provides that an insurance-support organization transacting business outside the state that has an effect on a person residing in this state is deemed to have appointed the commissioner to accept service of process on its behalf, if the commissioner causes a copy of the service to be immediately mailed by registered mail to the insurance-support organization at its last know principal place of business.

This bill would authorize the ~~commissioner~~ *commissioner* to *complete service of process or to provide that the* copy of service by using a third party mailing service with tracking capability.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 791.15 of the Insurance Code is
2 amended to read:
3 791.15. (a) Whenever the commissioner has reason to
4 believe that an insurance institution, agent or insurance-support
5 organization has been or is engaged in conduct in this state which
6 violates this article, or if the commissioner believes that an
7 insurance-support organization has been or is engaged in conduct
8 outside this state which has an effect on a person residing in this
9 state and which violates this article, the commissioner shall issue
10 and serve upon such insurance institution, agent or
11 insurance-support organization a statement of charges and notice
12 of hearing to be held at a time and place fixed in the notice. The
13 date for such hearing shall be not less than 30 days after the date
14 of service.
15 (b) At the time and place fixed for such hearing the insurance
16 institution, agent or insurance-support organization charged shall
17 have an opportunity to answer the charges against it and present
18 evidence on its behalf. Upon good cause shown, the
19 commissioner shall permit any adversely affected person to
20 intervene, appear and be heard at such hearing by counsel or in
21 person.
22 (c) At any hearing conducted pursuant to this section the
23 commissioner may administer oaths, examine and cross-examine
24 witnesses and receive oral and documentary evidence. The
25 commissioner shall have the power to subpoena witnesses,
26 compel their attendance and require the production of books,
27 papers, records, correspondence and other documents which are
28 relevant to the hearing. A stenographic record of the hearing shall
29 be made upon the request of any party or at the discretion of the
30 commissioner. If no stenographic record is made and if judicial
31 review is sought, the commissioner shall prepare a statement of
32 the evidence for use on review. Hearings conducted under this
33 section shall be governed by the same rules of evidence and
34 procedure applicable to administrative proceedings conducted
35 under the laws of this state.

(d) Statements of charges, notice, orders and other processes of the commissioner under this article may be served by anyone duly authorized to act on behalf of the commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail *or by any third party mailing service with tracking capability*. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this article have been allegedly violated. A verified return setting forth the manner of service, ~~or the~~ return postcard receipt in the case of registered mail, *or signed receipt documentation*, shall be sufficient proof of service.

~~SECTION 1.~~

SEC. 2. Section 791.16 of the Insurance Code is amended to read:

791.16. For the purpose of this article, an insurance-support organization transacting business outside this state that has an effect on a person residing in this state shall be deemed to have appointed the commissioner to accept service of process on its behalf, provided the commissioner causes a copy of the service to be mailed immediately by registered mail, or by any third party mailing service with tracking capability, to the insurance-support organization at its last known principal place of business. The return postcard receipt or signed receipt documentation for the mailing shall be sufficient proof that the same was properly mailed by the commissioner.